IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3714 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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R C SAXENA - Petitioner(s)
Versus
OIL & NATURAL GAS CORPON. LTD & 2 - Respondent(s)

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Appearance :
MR IS SUPEHIA for Petitioner(s) : 1,
NOTICE UNSERVED for Respondent(s) : 1 - 3.
MS KJ BRAHMBHATT for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 14/09/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner, who was serving with ONGC and who was permitted to voluntarily retire with effect from 31st March

1995, has prayed for an appropriate writ, direction or order to quash and set aside the letter dated 26.7.95/1.8.95 and directing the respondents to release the dues of the petitioner including CPF, Gratuity, Bonus etc., as stated in the representation dated 22.4.1996 with 18% interest. During the pendency of the present Special Civil Application, the petitioner has been paid the outstanding dues, i.e., amount of Rs. 31,958/- by cheque dated 23rd February 2002 and other amount of Rs. 50,966 by cheque dated 14.5.2004 and therefore Shri Supehia, learned advocate for the petitioner has submitted that now the only grievance which survives is regarding payment of interest on delayed payment, i.e., from 1.4.1996 till the actual date of payment.

2. Shri Supehia, learned advocate has submitted that the petitioner was permitted to retire voluntarily with effect from 31.3.1995 and

thereafter inspite of several reminders and representations the outstanding dues towards CPF, Gratuity, Bonus etc., were not paid and even a No Objection Certificate was issued by the competent authority that no enquiry or vigilance case is pending against the petitioner and thereafter the petitioner was permitted to retire. It is submitted that there was no justification to withhold the aforesaid amount and therefore it is requested to pay the interest on outstanding amount at the rate of 18% p.a. It is required to be noted that in the further affidavit dated 21st June 2004 the petitioner has claimed interest at the rate of 10% p.a. with effect from 1.4.1996 till the above date.

3. Ms. Kalpana Brahmbhatt, learned advocate appearing on behalf of the respondents, while relying upon the affidavit-in-reply, has submitted that as such a departmental enquiry was contemplated against the petitioner and therefore

the aforesaid amount was not paid. It is further submitted by her that in fact by various correspondence the petitioner was called upon to appear before C.E. (P) MM Cell, Ahmedabad for settling the discrepancies of certain stores' items at Ahmedabad. However, the petitioner was not cooperating and never reported and therefore there was justification for not paying the aforesaid amount. However, after obtaining legal opinion the aforesaid amount was paid in the year 2002 and 2004 respectively. It is further submitted that award of interest at the rate of 10% also is too high.

4. Heard the learned advocates for the parties. It is not in dispute that the petitioner was permitted to retire voluntarily with effect from 31.3.1995. It is also not in dispute that he was permitted to retire after issuing No Objection Certificate; and that no departmental enquiry or vigilance case is

pending. It is also not in dispute that even after retirement, no further departmental enquiry was initiated. According to the respondents only departmental enquiry was in contemplation. However, nothing is on record that any departmental enquiry was initiated. It is true that, there were some correspondence exchanged in the year 1996 by which the petitioner was directed to appear before the authority for settling the discrepancies of certain stores' items at Ahmedabad. However,nothing is on record as to what happened thereafter. All of a sudden, and during the pendency of the present Special Civil Application, the aforesaid amount came to be paid by two different cheques. There is no reasonable justification shown for not making payment of outstanding dues of the petitioner which are of CPF, Gratuity, Bonus etc., after he was permitted to retire voluntarily, and therefore the petitioner would be entitled to a reasonable interest on the delayed payment. In

the facts and circumstances of the case, it will be appropriate and in the fitness of things if the petitioner is awarded interest at the rate of 7.5% on the outstanding amount which came to be paid by the respondents in the years 2002 and 2004 respectively. Considering the various correspondence exchanged between the parties in the year 1996, it can be said that there might be some justification in not paying the amount upto 1996, however, after 1.1.1996, it appears that there is no justification whatsoever in absence of any other proceedings and/or enquiry. Under the circumstances, the petitioner would be entitled to interest with effect from 1.1.1997 onwards till payment. The respondents are directed to calculate the interest and pay the same to the petitioner within the period of 3 (three) months from the date of receipt of this order. Rule is made absolute, however, there will be no order as to costs.

Rmr. *[M.R. Shah, J.]*